



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF FEBRUARY 11, 2002

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#02-21 In re Robert B., S103022. (G027680; 93 Cal.App.4th 963.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. The court limited review to the issue of whether ceramic spark plug chips constitute “another instrument or tool” within the meaning of Penal Code section 466, which prohibits the possession of a “picklock, . . . crowbar, screwdriver, . . . master key, or other instrument or tool with intent feloniously to break or enter into any vehicle.”

#02-22 People v. Holmes, S102965. (E027589; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the issue of whether the trial court, in accepting defendant’s guilty plea, made an adequate inquiry to assure that there was a “factual basis” for the plea, as required by Penal Code section 1192.5.

#02-23 People v. Reliford, S103084. (B141201; 93 Cal.App.4th 973, mod. 94 Cal.App.4th 417b.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case concerns (1) whether CALJIC 2.50.01 (1999 rev.) correctly instructs on the burden of proof where evidence of prior sexual

(over)

offenses is admitted under Evidence Code section 1108; and (2) if not, whether the error is subject to review for harmless error and the applicable standard of review.

#02-24 State Department of Health Serv. v. Superior Court, S103487. (C034163; 94 Cal.App.4th 14.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case concerns (1) whether an employer is strictly liable under the Fair Employment & Housing Act (FEHA) (Gov. Code, § 12900 et seq.) for sexual harassment committed by a supervisor; and (2) whether the Burlington/Faragher defense recognized in federal Title VII sexual harassment claims (Burlington Industries v. Ellerth (1998) 524 U.S. 742; Faragher v. City of Boca Raton (1998) 524 U.S. 775) is available in sexual harassment actions brought under the FEHA.

#02-25 In re Erik A., S103132. (F037575; unpublished opinion.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. The court ordered briefing deferred pending decision in Robert L. v. Superior Court, S100359 (#01-144), which concerns whether Penal Code section 186.22, subdivision (d), as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), applies to any misdemeanor and any felony committed for the benefit of a criminal street gang, or only to those crimes expressly punishable either as a felony or as a misdemeanor.

STATUS

#02-12 People v. Stanistreet, S102722. The court limited review to the issue of whether Penal Code section 148.6, which defines the misdemeanor offense of making a false allegation of misconduct against any peace officer, is, on its face, unconstitutional under the First Amendment.

#01-166 Viner v. Sweet, S101964. The court limited review to issues concerning the proper analysis of causation in an action for legal malpractice in a transaction rather than in litigation, including (1) whether the “case within a case” approach is applicable, and (2) whether the plaintiff must establish it would have obtained a more favorable result but for the defendant’s alleged negligence.

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